

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Juan Alonzo-Miranda
Plaintiff,

vs.

Schlumberger Technology Corporation
Defendant.

§
§
§
§
§
§
§

CIVIL ACTION NO. : 5:13-CV-01057-OLG-HJB

Plaintiff's Motion to Reconsider

Plaintiff, Juan Alonzo-Miranda, files this Motion to Reconsider the Court's Order Adopting Report and Recommendations (Dkt. #106) and would show the Court as follows:

Intervening Fifth Circuit Case Law

The Court's Order (Dkt. #106, signed December 15, 2014) appears to have crossed paths with Plaintiff's Supplement (Dkt. #105, filed December 16, 2014) citing the intervening authority of *E.E.O.C. v. LHC Group, Inc.*, ___ F.3d ___, 2014 WL 7003776 (5th Cir. Dec. 11, 2014). If the Court had the benefit of this authority prior to issuing its order, the plaintiff respects that. However, if the Court had not yet reviewed this new Fifth Circuit authority, Plaintiff believes the case to be controlling. As discussed in Plaintiff's Supplement (Dkt. #105), the Fifth Circuit has now eliminated the precise requirement which the Magistrate Court relied on in granting partial summary judgment to Defendant. The case's instruction on mixed motives as an alternative to pretext is also highly relevant, as the statements which the Fifth Circuit held were evidence of mixed motives are similar to Defendant's admissions in this case. *E.E.O.C. v. LHC Group, Inc.* at *11. The plaintiff thus believes that reconsideration of the Court's Order (Dkt. #106) is appropriate in light of the intervening authority of *E.E.O.C. v. LHC Group, Inc.*

For the foregoing reasons, and as set out in Plaintiff's Objections to the Report and Recommendation (Dkt. #104) and Plaintiff's Supplement (Dkt. #105), Plaintiff respectfully requests

that the Court reconsider its Order (Dkt. #106), reject the conclusions of parts III.B and III.C of the Report (Dkt. #103) and deny Schlumberger's Motion for Summary Judgment (Dkt. #45) in its entirety, or in the alternative, remand the issue to the Magistrate Court.

Respectfully submitted,

Juan Alonzo-Miranda,
By his attorneys,

/s/John W. Griffin, Jr.

John W. Griffin, Jr.
Texas Bar No. 08460300
203 North Liberty Street
Victoria, Texas 77901
(361) 573-5500 – Telephone
(361) 573-5040 – Telecopier
jwg@lawmgk.com

Oscar H. Villarreal
LUTTREL ZUCKER LAW GROUP
Texas Bar No. 20583900
400 N. Loop 1604 E.
Afton Oaks, Ste. 208
San Antonio, Texas 78232
(210) 426-3600 – Telephone
(210) 426-3610 – Fax

Counsel for the Plaintiff

Certificate of Conference

I certify that I conferred via email with William Davis, attorney for Defendant, on December 16, 2014 and that Mr. Davis stated that he opposed the filing of this motion.

/s/ John W. Griffin, Jr.
John W. Griffin, Jr.

Certificate of Service

I certify that a true and correct copy of this document has been served upon the defendant via the electronic filing system of the United States District Court for the Western District of Texas on December 16, 2014.

William L. Davis
davisw@jacksonlewis.com
JACKSON LEWIS P.C.
500 N. Akard, Suite 2500
Dallas, Texas 75201

/s/ John W. Griffin, Jr.
John W. Griffin, Jr.